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CERTIFICATE OF MAILING

I hereby certify that the enclosed correspondence (along with any paper referenced as being enclosed) is being deposited with the United States Postal Service on the date shown below as first class mail with sufficient postage in an envelope addressed to Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Date:

8/19/02

Jennifer A. Moore

Jennifer A. Moore

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re NATIONAL PHASE of:

Applicant(s): Dirnberger Gerhard
Inter. Appln. No: PCT/AT00/00145
Inter. Filing Date: May 24, 2000
U.S. Serial No: 10/031,185
Title: COMPONENT OR ASSEMBLY OF SAME AND FIXING CLIP THEREFOR

10/031,185

Docket No. PATNP0101US

LETTER

Commissioner for Patents
U.S. Patent and Trademark Office
Washington, D.C. 20231

Dear Sir:

Enclosed for filing in connection with the above-referenced application is an English language translation of the International Preliminary Examination Report issued during the International phase of the subject application. Several of the references of record are discussed.

Respectfully submitted,

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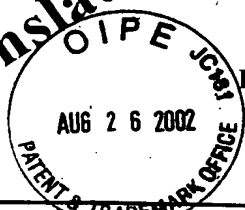
PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Translation



Applicant's or agent's file reference 10437	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/AT00/00145	International filing date (day/month/year) 24 May 2000 (24.05.00)	Priority date (day/month/year) 23 July 1999 (23.07.99)
International Patent Classification (IPC) or national classification and IPC E04F 15/04		
Applicant M. KAINDL		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.	
2. This REPORT consists of a total of <u>8</u> sheets, including this cover sheet.	
<input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).	
These annexes consist of a total of <u>5</u> sheets.	
3. This report contains indications relating to the following items:	
I <input checked="" type="checkbox"/>	Basis of the report
II <input type="checkbox"/>	Priority
III <input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV <input checked="" type="checkbox"/>	Lack of unity of invention
V <input checked="" type="checkbox"/>	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
VI <input type="checkbox"/>	Certain documents cited
VII <input checked="" type="checkbox"/>	Certain defects in the international application
VIII <input checked="" type="checkbox"/>	Certain observations on the international application

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Date of submission of the demand 15 February 2001 (15.02.01)	Date of completion of this report 25 October 2001 (25.10.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.



INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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I. Basis of the report

1. With regard to the **elements** of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages 1-7, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages 1-23, filed with the letter of 06 October 2001 (06.10.2001)
- ☒ the drawings:
pages 1/2, 2/2, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

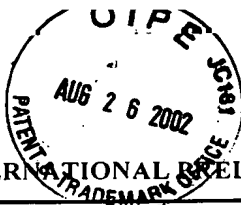
- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
- ☒ not complied with for the following reasons:

SEE SEPARATE SHEET

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
- ☐ the parts relating to claims Nos. _____

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: IV.

2. The application lacks unity of invention under PCT Rule 13:

2.1 Independent Claims **1** and **18** have only a clip for components in common, which has a flange element bent protruding upwards from the clip base and a retaining element; the retaining element is formed by a sprung or resilient self-locking bracket that can be deflected, which - in the unstressed position - extends obliquely upward towards the two flange elements.

2.2 A clip of this type is already known from document **D4** (cf. Figure 5, clip (17) in the form of a spring-steel band with retaining elements (23)).

2.3 Hence, the different inventions contained in these claims are not connected by a single general inventive concept (PCT Rule 13.1).

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1-23	YES
	Claims		NO
Inventive step (IS)	Claims	1-17	YES
	Claims	18-23	NO
Industrial applicability (IA)	Claims	1-23	YES
	Claims		NO

2. Citations and explanations

1. The following documents were considered as the basis for this examination report:

D1 = EP-A-0 855 482;
D2 = WO-A-84/02155;
D3 = DE-A-39 29 252;
D4 = DE-A-197 09 641;
D5 = DE-U-297 10 175.

3. The subject matter of Claims **1-17** is novel and based on a single general inventive concept:

- 3.1 **D4** describes (cf. Figure 5) panel-shaped components (1) made of wooden material that are disposed adjacent to each other, held together by at least one clip (17),

a) the components (1) have protrusions (6) and/or recesses (9) along the longitudinal sides of their faces by means of which adjacent components can be adjoined,

b) two groove-shaped recesses (18) for receiving retaining elements (23) of the clip (17)

disposed underneath the components are constructed in the lower surface (2) of each component (1) parallel to both the longitudinal and the lateral faces, said clip holding adjacent components together and pressing their faces against each other;

- c) the retaining elements (23) protrude upwards or are bent upward from the clip base;
- d) one of the two retaining elements (23) in the form of a flange element can be placed against the inner surface, close to the face, of a recess (18) and the other retaining element (23) can be inserted into a recess (18) of the adjacently adjoined component and abuts the inner surface, close to the face, of the recess of the latter adjoined component, pressing it towards the former component (cf. column 4, lines 17-22);
- e) the other retaining element (23) provided for engagement in the recess (18) of the adjoined component (1) is formed by a sprung or resilient self-locking bracket that can be deflected, which - in the unstressed position - extends obliquely upwards from the clamp base towards the plane defined by the faces of the components.

- 3.2 The invention addresses the problem of making it possible to pivot in and/or horizontally slide the latter component to be joined and to press said component by means of the clip already during the pivoting or sliding operation (cf. Figure 1 and page

32-36; Figure 3 and page 4, lines 24-31) once the clip has already been attached to the first component.

3.3 The solution is that:

f) under tension and/or in the retaining position, the snap-in bracket is or can be positioned or pivoted downward into or below the plane of the clip base body.

3.4 This combination of features in Claim 1 is neither known from nor suggested by the relevant prior art. Hence, the subject matter of Claim 1 is novel and inventive.

3.5 Because Claims 2-17 are dependent on Claim 1, their subject matter is also novel and inventive.

4. The subject matter of Claims 18-23 is novel but does not involve an inventive step.

4.1 D1 describes (cf. Figures 2a-2c, 3a-3c, 6 and 7) a clip (6) for components (1 and 2),

g) which has two flange elements (54 and 56) extending upward projecting from a clip base body and a retaining element (10) for fastening on a component,

h) one of the flange elements (54) lies between the flange element (56) that extends further upward and the retaining element (10).

4.2 The subject matter of Claim **18** differs from this known clip solely in that:

i) the retaining element is formed by a sprung or resilient self-locking bracket that can be deflected, which - in the unstressed position - extends obliquely upward towards the two flange elements.

4.3 The invention addresses the problem of further developing this known clip to permit adjacently disposed components to be held together and their adjoining end faces pressed against each other.

4.4 Feature (i), however, has already been used for the same purpose with a similar clip, cf. Document **D4**, in particular, the self-locking bracket (23) of clip (17). To achieve the same purpose, it is obvious to a person skilled in the art to use the clip known from **D1** to replace the retaining element (10) of the clip according to **D1** by a self-locking bracket according to **D4**, as required, with corresponding effect and thereby to arrive at a clip according to Claim **18** without being inventive.

4.5 The clip (17) described in **D4** is produced from spring steel strip, so the self-locking bracket (23) can very easily be resiliently deflected or displaced under stress downward from its rest position towards the clip base body (Claim **19**).

4.6 The other features in the dependent Claims **20-23** relate simply to constructional embodiments of the clip according to Claim **18**, which clearly cannot be considered inventive because a person skilled in the

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art would provide them on his own as required if they were not already known or obvious from prior art (cf. **D1** regarding Claim **21**; cf. snap-in element (24) in **D4** regarding Claim **22**).

Hence, the combination of features from these claims with those from independent Claim 18 does not involve a subject matter that is inventive.

Industrial applicability (PCT Article 33(4))

5. The subject matter of Claims 1-23 is industrially applicable.

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VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

6. Claim 1 has been drafted in two-part form; however, the features (e) are incorrectly included in the characterizing part because they were disclosed in document **D4** in conjunction with the features mentioned in the preamble (PCT Rule 6.3(b)).
7. The description is not consistent with the claims (PCT Rule 5.1(a)(iii)).
8. Pursuant to PCT Rule 5.1(a)(ii), the description should have cited the prior art described on page 1 and defined in the preamble of Claim 1.

Document **D5**, cited on page 1, does not include that prior art because none of the above-mentioned features (b) to (e) is found therein.
9. Contrary to PCT Rule 5.1(a)(ii), the description does not cite **D1** or **D4** or indicate the relevant prior art disclosed therein.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

10. Claim 1 is directed at components that "are disposed adjacent to each other and held together by at least one clip (11)". That expression makes it clear that the components and the clip are claimed in the position used.

Nonetheless, subclaims 2-17 are only directed at these components. Moreover, Claim 18 makes clear that only components are defined in Claims 1-17.

This contradiction between the claims raises doubt regarding the subject matter for which protection is sought, thus making the claims unclear (PCT Article 6).

12. In Claim 1 it is not clear whether the numerous occurrences of [the German abbreviation] "bzw." refer to alternative solutions or should be interpreted in the sense of "and/or".
13. Claim 7 refers back to one of Claims 1-5, although it relates to an additional flange element first defined in Claim 6.
14. The expression "ends before the flange element (10) and/or the flange element (19)" in Claim 21 is unclear and can only be understood by reference to the figures.
15. In Claim 23 the expression "perpendicular to the longitudinal direction of the components" attempts

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VIII. Certain observations on the international application

to define the clip in terms of features that relate to the use of these clips, thereby resulting in a lack of clarity. The features comprised in this claim do not describe the clip as such, but rather its relationship to the components not claimed.